HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 954 (S/S) 2004

Anand Ballabh Pandey S/o Sri Data Ram,
Assistant Development Officer (Horticulture),
Horticulture Mobile Team, Garurabanj,
Almora, Distt. Almora. ...Petitioner

Vs.

1. State of Uttaranchal through Secretary,
   Horticulture Department, Uttaranchal Shasan, Dehradun,
2. Director, Horticulture Uttaranchal, Chaubatia,
   Ranikhet, District Almora,
3. District Horticulture Officer, Almora. ...Respondents

Sri Manoj Tewari, learned counsel for the petitioner.
Learned Standing Counsel for respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manoj Tewari, learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner who is working as Assistant Development Officer (Horticulture) Garurabanj Block Dhauladevi, district Almora, by means of this writ petition, has challenged the suspension order dated 12.8.2004 passed by respondent no. 2 /Director, Horticulture Uttaranchal, Chaubatia, Ranikhet, District Almora whereby the petitioner has been suspended.

On 23.08.2004, this Court directed the learned Standing Counsel to file counter affidavit. No counter affidavit has been filed so far.

Both the parties are agreed that the writ petition may be decided finally at this stage.

Contention of the petitioner is that initially he was appointed in Sult Block of district Almora in the post of Supervisor in Indo-German Agriculture Development Agency w.e.f. 09.09.1974; that, thereafter he was absorbed in the Horticulture Department in 1976; that he was promoted as Assistant Development Officer (Horticulture) w.e.f. June 1986.

Since then he is serving as Assistant Development Officer (Horticulture). It is further contended that in the year 2001, the petitioner was transferred from Kapkot Block to Bageshwar and in 2003 he was transferred to Block Dhauladevi. Again the petitioner was transferred from Garurabanj, Block Dhauladevi to Sult, however this transfer order was not implemented. The said transfer order was passed on the sole dictation of the Hon'ble Minister.

On 09.08.2004, there was a seminar at Block Dhauladevi, where the Hon'ble Minister has found on spot inspection that instead of 250 saplings of fruit trees, the petitioner has planted only 10 saplings, and consequently, the Hon'ble Minister directed the Addl. Director, Horticulture to suspend the petitioner.

Contention o the petitioner is that he was not responsible for planting the sapling of the fruit trees instead he was assigned the work to supervise and further the Hon'ble Minister has visited only the courtyard of the farmers where 10 saplings of fruit trees were found planted and the remaining saplings of fruit trees were planted in the agricultural fileds of the farmers which were not noticed by the respondents. Consequently, the suspension order of the petitioner is unwarranted.

Learned counsel for the petitioner has further submitted that the charges levelled against the petitioner in the suspension order are not sufficient to push the petitioner under suspension. He has further submitted that more than three months have passed but neither any Enquiry Officer has been appointed nor any charge sheet has been served upon the petitioner.

Since the petitioner was suspended on 12.08.2004. More than three months have been elapsed but no charge sheet has been served upon the petitioner. Under these circumstances, I think it just and proper to direct that respondents/ Addl. Director, Horticulture it issue charge sheet to the petitioner within two weeks from the date of production of a certified copy

of this order and thereafter the enquiry shall be completed within four weeks.

The Addl. Director, Horticulture shall take final decision and communicate the same to the petitioner by 15th of January 2005.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

December 1, 2004:
NCM: